

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

JEFFREY BARRON, an individual,)	
)	
Plaintiff,)	Case No.: 3:06cv983-MHT(WO)
)	
v.)	
)	
WERNER ENTERPRISES, INC., a)	
corporation, et al.,)	
)	
Defendant.)	

WERNER ENTERPRISES, INC.'S OBJECTION AND
RESPONSE TO THE PLAINTIFF'S MOTION TO REMAND

COMES NOW the Defendant, **Werner Enterprises, Inc.**, (hereinafter referred to as the "Defendant"), and for the record, objects to the Plaintiff's Motion to Remand as follows:

1. The Defendant incorporates by reference and renews all arguments found in Werner Enterprises, Inc.'s Response to Order to Show Cause Why the Voluntary-Involuntary Rule is Inapplicable, previously filed with the Court on November 7, 2006.

2. Additionally, the Defendant incorporates by reference and renews all arguments found in Werner Enterprises, Inc.'s Reply to Plaintiff's Response to Show Cause Why the Voluntary-Involuntary Rule is Applicable, previously filed with the Court on November 13, 2006.

3. As fully briefed in the aforementioned filings, the Defendant contends that although the Plaintiff opposed the state court's dismissal of the Chambers County Commission and William Lewis Jennings, the "voluntary-involuntary" rule does not apply to the removal of this action because the state court dismissed those parties on jurisdictional grounds, not on the merits of the claims against them. See Insinga v. LaBella, 845 F.2d 249 (11th Cir. 1988). Based upon the authority of Insinga, Werner Enterprises, Inc., properly removed this case to the Middle District of

Alabama, and the case should not be remanded because the voluntary-involuntary rule is inapplicable.

WHEREFORE, PREMISES CONSIDERED, the Defendant avers that this Honorable Court has diversity of citizenship jurisdiction over this case because the voluntary-involuntary rule, as explained in Insinga v. LaBella, 845 F.2d 249 (11th Cir. 1988), does not apply and, therefore, Plaintiff's Motion to Remand should be DENIED.

s/ Lea Richmond

Charles F. Carr (CAR012)

Thomas L. Oliver, II (OLI013)

Lea Richmond, IV (RIC062)

Counsel for Defendant Werner Enterprises, Inc., and
Amhad Rashad Ranson

OF COUNSEL:

CARR ALLISON

P.O. Box 1126

Daphne, Alabama 36526-1126

Telephone: (251) 626-9340

Facsimile: (251) 626-8928

100 Vestavia Parkway

Birmingham, Alabama 35216

Telephone: (205) 822-2006

Facsimile: (205) 822-2057

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2006, the foregoing document was electronically filed with the Clerk of this Court using the CM/ECF system which will send notification of such filing to the following:

Timothy L. Dillard, Esq.
The Berry Building, Suite 400
2015 Second Avenue North
Birmingham, Alabama 35203

Grant B. Smith, Esq.
DENNIS, CORRY, PORTER & SMITH, L.L.P.
Piedmont Fourteen
3535 Piedmont Road
Suite 900
Atlanta, Georgia 30305-4611

s/ Lea Richmond, IV

OF COUNSEL